

E-filed: 12/12/2008

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

RAMBUS INC.,

Plaintiff,

v.

No. C-05-00334 RMW

REQUEST FOR PROPOSED AGENDAS

HYNIX SEMICONDUCTOR INC., HYNIX
SEMICONDUCTOR AMERICA INC.,
HYNIX SEMICONDUCTOR
MANUFACTURING AMERICA INC.,

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC., SAMSUNG SEMICONDUCTOR, INC.,
SAMSUNG AUSTIN SEMICONDUCTOR,
L.P.,

NANYA TECHNOLOGY CORPORATION,
NANYA TECHNOLOGY CORPORATION
U.S.A.,

Defendants.

RAMBUS INC.,

No. C-05-02298 RMW

Plaintiff,

v.

SAMSUNG ELECTRONICS CO., LTD.,
SAMSUNG ELECTRONICS AMERICA,
INC., SAMSUNG SEMICONDUCTOR, INC.,
SAMSUNG AUSTIN SEMICONDUCTOR,
L.P.,

Defendants.

1 RAMBUS INC.,

No. C-06-00244 RMW

2 Plaintiff,

3 v.

4 MICRON TECHNOLOGY, INC., and
5 MICRON SEMICONDUCTOR PRODUCTS,
6 INC.

7 Defendants.

8 The parties have three hearing dates scheduled in the coming weeks. December 19 has been
9 designated as the pretrial conference. January 6 and 7 of 2009 have been reserved as additional
10 dates for hearing the parties' numerous pending motions for summary judgment and *Daubert*
11 motions.

12 December 19 is scheduled as a pretrial conference. The court has not yet received a joint
13 pretrial conference statement from the parties. The court understands that a variety of pretrial
14 conference matters like trial time estimates and witness lists depend on the court's rulings on
15 summary judgment and the number of representative products and prior art references. The court
16 therefore extends the deadline for the parties to file their joint pretrial conference statement to
17 January 5, 2009 and does not anticipate discussing trial time estimates on December 19. The court's
18 current agenda for December 19 therefore consists of: (1) resolving any lingering disputes over
19 representative products (if briefed in letters by December 17); (2) resolving any lingering disputes
20 over expert opinions related to the court's construction of "memory device" (if briefed in letters by
21 December 17); and (3) hearing argument on motions on which oral argument is needed.

22 As before, the court would benefit from the parties' insight regarding what matters they wish
23 to be heard on December 19. *See* Docket No. 2665 (Nov. 26, 2008). Any proposal should be
24 similar in format to those filed in response to the court's prior request, but filed jointly. If the parties
25 cannot agree on a priority list, each party should list up to five matters they wish to have addressed
26 or heard on December 19 (in addition to those mentioned above). The joint proposal should be filed
27 by Monday, December 15 at 5:00 p.m.
28

1 Finally, the extraordinary¹ nature of this litigation should compel the parties to make an
 2 additional good faith effort to settle. At the December 10 hearing, the court encouraged counsel to
 3 settle this dispute, but counsel's clients were not there to hear the court. The court therefore expects
 4 counsel to convey the court's following concerns to their clients.

5 A court's orders and a jury's verdict necessarily have binary outcomes. Motions are
 6 generally granted or denied. The court cannot discount the relief requested because the matter was a
 7 close call. Patents are valid or invalid. The jury cannot recognize the probabilistic nature of patent
 8 rights. Injunctions are entered or not. The court cannot fashion remedies that force the parties to
 9 engage in joint research and development, to shape product roadmaps, or to create innovative new
 10 joint ventures.

11 No order that this court can enter can possibly benefit the parties as much as a settlement.
 12 Until that happens, the litigation will continue to grind forward with motions, trials, and appeals, and
 13 potentially more motions, retrials, and further appeals. This litigation produces only uncertainty,
 14 and it does so at tremendous cost. It sacrifices the time of employees that could be spent developing
 15 new technologies. It diverts and consumes money that could be spent on innovation. And it chills
 16 the development of new products that remain hostage to the rights of others. The opportunity cost of
 17 this litigation is staggering, and in light of economic conditions, ghastly. It is time for the parties to
 18 move on.

19
 20 DATED: 12/12/2008



RONALD M. WHYTE
 United States District Judge

21
 22
 23
 24
 25
 26
 27
 28 ¹ By "extraordinary," the court does not necessarily mean "exceptional." 35 U.S.C. § 285.

Notice of this document has been electronically sent to counsel in:

C-05-00334, C-05-02298, C-06-00244.

Counsel	Email	Appearances:		
		05-00334	05-02298	06-00244
Elpida:				
Eric R. Lamison	elamison@kirkland.com	x		
Hynix:				
Theodore G. Brown , III	tgbrown@townsend.com	x	x	x
Karin Morgan Cogbill	kfrenza@thelen.com , pawilson@thelen.com	x		x
Daniel J. Furniss	djfurniss@townsend.com	x		
Joseph A. Greco	jagreco@townsend.com	x		
Julie Jinsook Han	JJHan@townsend.com	x	x	x
Tomomi Katherine Harkey	tharkey@omm.com	x		
Jordan Trent Jones	jtjones@townsend.com	x		
Patrick Lynch	plynch@omm.com	x		
Kenneth Lee Nissly	kennissly@omm.com	x		x
Kenneth Ryan O'Rourke	korourke@omm.com	x		
Belinda Martinez Vega	bvega@omm.com	x	x	x
Geoffrey Hurndall Yost	gyost@thelenreid.com	x	x	x
Susan Gregory van Keulen	svankeulen@omm.com	x		x
Interdigital:				
Nathan Loy Walker	nathan.walker@wilmerhale	x		
Micron:				
Robert Jason Becher	robertbecher@quinnemanuel.com	x		x
John D Beynon	john.beynon@weil.com	x	x	x
Jared Bobrow	jared.bobrow@weil.com	x	x	x
Yonaton M Rosenzweig	yonirosenzweig@quinnemanuel.com	x		x
Harold Avrum Barza	halbarza@quinnemanuel.com			x
Linda Jane Brewer	lindabrewer@quinnemanuel.com			x
Aaron Bennett Craig	aaroncraig@quinnemanuel.com			x
Leeron Kalay	kalay@fr.com			x
David J. Lender	david.lender@weil.com			x
Rachael Lynn Ballard McCracken	rachaelmccracken@quinnemanuel.com			x
Sven Raz	sven.raz@weil.com			x
David J. Ruderman	davidruderman@quinnemanuel.com			x
Elizabeth Stotland Weiswasser	elizabeth.weiswasser@weil.com			x
Nanya:				
Jason Sheffield Angell	jangell@orrick.com	x	x	x
Kristin Sarah Cornuelle	kcornuelle@orrick.com	x	x	x
Chester Wren-Ming Day	cday@orrick.com	x		
Jan Ellen Ellard	jellard@orrick.com	x		x
Vickie L. Feeman	vfeeman@orrick.com	x	x	x
Robert E. Freitas	rfreitas@orrick.com	x		
Craig R. Kaufman	hlee@orrick.com	x		
Hao Li	hli@orrick.com	x		
Cathy Yunshan Lui	clui@orrick.com	x		
Theresa E. Norton	tnorton@orrick.com	x		

United States District Court

For the Northern District of California

1	Mark Shean	mshean@orrick.com	x		
2	Kaiwen Tseng	ktseng@orrick.com	x		
3	Rambus:				
4	Kathryn Kalb Anderson	Kate.Anderson@mto.com	x		x
5	Peter A. Detre	detrepa@mto.com	x	x	x
6	Erin C. Dougherty	erin.dougherty@mto.com	x	x	x
7	Sean Eskovitz	sean.eskovitz@mto.com	x	x	x
8	Burton Alexander Gross	Burton.Gross@mto.com	x	x	x
9	Keith Rhoderic Dhu Hamilton, II	keith.hamilton@mto.com	x	x	x
10	Pierre J. Hubert	phubert@mckoolsmith.com	x	x	x
11	Andrea Jill Weiss Jeffries	Andrea.Jeffries@mto.com	x	x	x
12	Miriam Kim	Miriam.Kim@mto.com	x	x	x
13	Carolyn Hoecker Luedtke	carolyn.luedtke@mto.com	x	x	x
14	Steven McCall Perry	steven.perry@mto.com	x	x	x
15	Jennifer Lynn Polse	jen.polse@mto.com	x	x	x
16	Matthew Thomas Powers	mpowers@sidley.com	x		
17	Rollin Andrew Ransom	ransom@sidley.com	x	x	x
18	Rosemarie Theresa Ring	rose.ring@mto.com	x	x	x
19	Gregory P. Stone	gregory.stone@mto.com	x	x	x
20	Craig N. Tolliver	ctolliver@mckoolsmith.com	x	x	x
21	Donald Ward	Bill.Ward@mto.com	x	x	x
22	David C. Yang	david.yang@mto.com	x	x	x
23	Douglas A. Cawley	dcawley@mckoolsmith.com			x
24	Scott L Cole	scole@mckoolsmith.com			x
25	Samsung:				
26	Steven S. Cherenksy	steven.cherenksy@weil.com	x	x	
27	Claire Elise Goldstein	claire.goldstein@weil.com	x	x	
28	Dana Prescott Kenned Powers	dana.powers@weil.com	x	x	x
29	Matthew Douglas Powers	matthew.powers@weil.com	x	x	
30		matthew.antonelli@weil.com			
31	Edward Robert Reines	Edward.Reines@weil.com	x	x	
32	Texas Instruments:				
33	Kelli A. Crouch	kcrouch@jonesday.com	x	x	x

Counsel are responsible for distributing copies of this document to co-counsel that have not registered for e-filing under the court's CM/ECF program in each action.

Dated: 12/12/2008

TSF
Chambers of Judge Whyte